COUNTY OF LOS ANGELES

FIRE DEPARTMENT

1320 NORTH EASTERN AVENUE
LOS ANGELES, CALIFORNIA 90063-3294
(323) 881-2401

P. MICHAEL FREEMAN
FIRE CHIEF
FORESTER & FIRE WARDEN

December 6, 2005

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

FIRE PROTECTION AGREEMENT STATE OF CALIFORNIA – COUNTY OF LOS ANGELES (ALL DISTRICTS) (3 VOTES)

IT IS RECOMMENDED THAT YOUR BOARD ACTING AS THE GOVERNING BODY OF THE COUNTY OF LOS ANGELES:

1. Find that this Agreement is exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the State CEQA Guidelines.

2. Approve a three-year Agreement between the State of California Department of Forestry and Fire Protection (State) and the County of Los Angeles.

3. Instruct the Chair of the Board to sign the Agreement.

4. Authorize the Consolidated Fire Protection District of Los Angeles County (District), pursuant to County Code Section 2.20.080, to provide fire protection services to the State Responsibility Areas covering the period from July 1, 2005 through June 30, 2008, and to receive compensation for such services in the amount of $43,075,125 under the above Agreement.

5. Authorize the Fire Chief of the District, to review and update the Operating Plan on an annual basis.

6. Assume responsibility for fire protection services to the State Responsibility Areas covering the period from July 1, 2005 through June 30, 2008, and to receive compensation for such services in the amount of $43,075,125 under the above Agreement.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

In conformance with provisions of the Public Resources Code, Section 4125, et seq., your Board is requested to approve the attached Agreement with the California Department of Forestry and the County. The Agreement will allow the District through the County to be compensated for the prevention and suppression of fires on a total of approximately 487,536 acres of State Responsibility Areas. This acreage includes privately owned watershed lands and portions of the unincorporated land area of the County that is protected by the District. There is a shared wildland/fire protection responsibility for this acreage pursuant to the County Charter and the Public Resources Code provisions which govern State Responsibility Areas.

This three-year Agreement provides fire protection services to over .5 million State Responsibility Area acres in the County for which the District will be compensated $43,075,125. This renewed Agreement allows the State to pay the County for fire services rendered by the District from July 1, 2005 through June 30, 2008.

Due to continued negotiations and recent State approval of certain terms and conditions, a new contract remains to be executed; however, in the interim, the existing contract is automatically extended on the same terms and conditions. Renewal agreements are retroactive to the end of the term of the present Agreement until a new contract is executed. Payment will be received for services rendered following the original contract agreement date of June 30, 2005.

Under County Policy/Procedures – Timely Submission of Contracts for Board Approval (Item No. 65, Agenda of September 12, 2000) proposed contracts which include a retroactive effective date are exempt when the County is receiving funds from a higher level of government such as the State. This Agreement has been approved as to form by County Counsel.

FISCAL IMPACT/FINANCING

The State of California will pay the County of Los Angeles the sum of $12,115,773 for Fiscal Year 2005-2006, $14,454,078 for Fiscal Year 2006-2007 and $14,454,078 for Fiscal Year 2007-2008 for fire protection and fire prevention services. These amounts will be passed through to the District as the service provider. There is a $2,051,196 contingency for future increases. Contractual compensation to the County is based upon what the State would spend if it were providing protection directly. Therefore, the two succeeding years' reimbursement is dependent upon the State's budget and legislative action for budget reduction and/or additional augmentation funding.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Pursuant to the provisions of the Public Resources Code, the State has elected to contract with the County for its legally required financial share of fire protection responsibility in this designated area. Based on the County's fire protection capability, efficiency and qualifications, an agreement is executed between the County and the State of California which provides for payment to the County for fire protection services rendered in State Responsibility Areas. This three-year Agreement provides for State reimbursement totaling $43,075,125, including $12,115,773 for Fiscal Year 2005-2006. Actual reimbursement rates will be adjusted annually through the Gray Book (Exhibit F to the Agreement) based upon the level of funds appropriated by the State for this purpose. Pursuant to County Code Section 2.20.080, the District will provide the fire protection services and receive compensation.

As specified by the Agreement, an Operating Plan is required and is attached as part of the Agreement (Exhibit G). The Operating Plan specifies the officers and employees of the District and the guidelines and information necessary to properly implement the terms and conditions of the Agreement.

In addition to Los Angeles County, the Counties of Kern, Marin, Orange, Santa Barbara and Ventura have entered into similar agreements and are commonly known as the "Contract Counties." These Counties provide direct protection to approximately 3.4 million acres of State Responsibility Area.

CONCLUSION

Please have your Executive Office return seven copies of the executed Agreement to this office for further processing and transmittal to the California Department of Forestry for execution by the State.

Respectfully submitted,

P. MICHAEL FREEMAN

PMF:mk

Attachment

c: Chief Administrative Officer
County Counsel
Auditor-Controller
Executive Officer, Board of Supervisors
Vicky Santana
Randi Tahara
Joseph Charney
Rick Velasquez
Sussy Nemer

STATE OF CALIFORNIA
DEPARTMENT OF FORESTRY AND FIRE PROTECTION

CONTRACT/INTERAGENCY REQUEST

CDF 301 (REV 5/03)

QUEUE NUMBER *(ASSIGNED BY CONTRACT'S OFFICE)*

SECTION I

PROJECT TITLE Los Angeles County Contract County Agreement	***DEPUTY DIRECTOR APPROVAL*** SIGNATURE DATE
REQUESTOR NAME (Person Submitting Contract Request) Kevin Lockwood	REGIONAL CONTRACT COORDINATOR APPROVAL:

ADDRESS 1416 Ninth Street,RM 1653-8, / P.O. Box 944246, Sacramento, CA 94244-2460		DATE 2005
UNIT Co-Op Fire	PHONE (916) 653-5371	FAX (916) 653-9708
CONTRACT MANAGER (Person responsible for overseeing contract): Deputy Chief, Contract Counties		AGENCY BILLING CODE (I.E. 13000) 1 3 0 2 8
ADDRESS 2524 Mulberry St., Riverside, CA 92501	PHONE (951) 320-6102	FAX (951) 320-6395

SECTION 2 - THIS IS A:

- ☒ NEW REQUEST, complete sections 1, 2, 3, 4, 6, 7, 9, 10 and attachments A & B. **(Also complete Section 5 for Interagency, Federal & Local)**
- ☐ REQUEST FOR AMENDMENT OR TO EXERCISE OPTIONAL TIME PERIODS, complete Sections 1, 2, 4, 5, 6, 8, 10 and attachment E
- ☐ REQUEST FOR NON-COMPETITIVELY BID (NCB) CONTRACT, complete sections 1, 2, 4, 5, 6, 9, 10 and attachments A, C & D*
- ☐ REQUEST TO CHANGE FUNDING INFORMATION OR TO DISENCUMBER FUNDS ONLY, complete sections 1, 4, 5 and 6 only.
- ☐ REVIEW AND COMMENT ONLY, complete sections 1, 2, 3, 4 and attach a draft

SECTION 3 - CONTRACTING METHOD

- ☐ REQUEST FOR PROPOSAL (RFP) *(Attach justification if secondary method is used)*
- ☐ INVITATION FOR BID (IFB)
- ☐ USE OF MASTER SERVICE AGREEMENT *(Consulting Services Only)*
- ☐ FEDERAL GOV'T
- ☐ EXEMPT FROM BIDDING *(Give authority for exempt status)*
- ☐ INTERAGENCY AGREEMENT *(Between state agencies only)*
- ☒ LOCAL GOV'T
- ☒ OTHER (Explain) Cooperative Fire Protection Agreement per PRC 4129

SECTION 4

☒ PAYABLE AGREEMENT ☐ RECEIVABLE AGREEMENT (Requires approval by both AO & Budget Office)

ADMINISTRATIVE OFFICER APPROVAL	BUDGET OFFICE APPROVAL (REQUIRED IF A RECEIVABLE)

SECTION 5 - CONTRACTOR INFORMATION

STD. 204 ON FILE? ☐ YES ☐ NO ☐ ATTACHED

CONTRACTOR NAME County of Los Angeles	CONTRACT NUMBER 7CA53852	PREVIOUS CONTRACT NUMBER 7CA02003
ADDRESS Kenneth Hahn Hall of Administration; 500 W. Temple St. Room 866; Los Angeles, CA 90012		FEDERAL ID/SSN
CONTACT PERSON Fire Chief, Los Angeles County Fire Department	PHONE (323)881-2401	FAX (323)265-9948

SECTION 6 FUNDING AND PAYMENT INFORMATION

FUNDS BUDGETED? ☒ YES ☐ NO ☐ SINGLE FISCAL YEAR ☒ MULTIPLE FISCAL YEARS**

PAYMENT TERMS *(more than one may apply.)*

- ☐ MONTHLY FLAT RATE
- ☐ QUARTERLY
- ☐ ONE-TIME PAYMENT
- ☐ PROGRESS PAYMENT
- ☒ ITEMIZED INVOICE
- ☐ PROPOSED WITHHOLD
- ☒ OTHER *(EXPLAIN)* At least monthly per agreement

	FUND TITLE	ITEM	F/Y	CHAPTER	STATUTE	CALSTARS CODING	AMOUNT
CURRENT:	General	001	05/06	BA/05	2005	05-3010-418.10-00700	$12,115,773
	General	001	06/07	BA/06	2006	06-3010-418.10-00700	$14,454,078
	General	001	07/08	BA/07	2007	07-3010-418.10-00700	$14,454,078
	General	001				Contigency for Increases	$2,051,196
☐ CHANGE TO:							

SECTION 7 - BIDDING INFORMATION AND FEATURES

CONTRACT TERM (Desired start and ending dates of agreement)
July 1, 2005 through June 30, 2008 with 12 month "Holding Over" clause.

DESIRED BID OPENING DATE (allow 4-6 weeks minimum from date of request)
N/A Agreement pursuant to Public Resources Code Section 4129.

PLACE/ADDRESS OF BID OPENING (Street Address NOT P.O. Box)

ESTIMATED CONTRACT AMOUNT
"Gray Book" amount not to exceed $43,075,125 over the term of the agreement.

A PRE-BID CONFERENCE OR SITE VISIT IS:

☐ MANDATORY DATE/TIME: _____
LOCATION: _____

☐ OPTIONAL: ☐ CALL FOR AN APPOINTMENT ☐ NO APPOINTMENT NEEDED

☐ NOT APPLICABLE

IS THIS HAZARDOUS WORK? YES ☐ NO ☐

BONDS REQUIRED AND /OR DESIRED:		FOR JANITORIAL CONTRACTS:		
☐ PAYMENT	☐ BID SECURITY	LIABILITY INSURANCE	☐ YES ☐ NO	$
☐ PERFORMANCE	☐ FIDELITY	FIDELITY BOND	☐ YES ☐ NO	$

SECTION 8 - AMENDMENT TO EXISTING CONTRACT

BRIEF DESCRIPTION OR REASON FOR AMENDMENT

TERM TO BE AMENDED	CURRENT END DATE	NEW END DATE

AMOUNT TO BE ☐ ADDED ☐ DELETED BY AMENDMENT

SECTION 9 - SPECIAL REQUIREMENTS AND COMMENTS (Indicate any unusual or special criteria here)

SECTION 10

ATTACHMENTS:

A. ☐ SCOPE OF WORK (See page three marked "Exhibit A")
B. ☐ ADVERTISEMENT DESCRIPTION (See Page four marked "CDF-301 Ad Description")
C. ☐ CONTRACT ADVERTISING EXEMPTION REQUEST (STD-821) *
D. ☐ NCB JUSTIFICATION - Non-Competitively Bid (NCB) Contract Justification (2 Pages)*
E. ☐ PROPOSED CHANGES TO SCOPE OF WORK (Submit actual changes to be made)
F. ☐ OTHER _____

* STD-821 is available on CDF's Electronic Forms site. NCB form is available on DGS Procurement website: www.pd.dgs.ca.gov

** Requires advance Contract Office approval, contact your regional/unit contract coordinator.

☐ CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED

7CA53852

1. CONTRACTOR'S NAME
County of Los Angeles

2. FEDERAL I.D. NUMBER

3. AGENCY TRANSMITTING AGREEMENT
Forestry and Fire Protection

4. DIVISION, BUREAU, OR OTHER UNIT
Fire Protection

5. AGENCY BILLING CODE
013028

6. NAME AND TELEPHONE NUMBER OF CONTRACT ANALYST FOR QUESTIONS REGARDING THIS AGREEMENT
Doris Brengettsey, (916) 323-3827 P/C, Kevin Lockwood, (916) 653-5371

7. HAS YOUR AGENCY CONTRACTED FOR THESE SERVICES BEFORE?
☐ NO ☒ YES (*If YES, enter prior contractor name and Agreement Number*) County of Los Angeles, 7CA02003

8. BRIEF DESCRIPTION OF SERVICES - LIMIT 72 CHARACTERS INCLUDING PUNCTUATION AND SPACES
Fire prevention and suppression responsibility

9. AGREEMENT OUTLINE *(Include reason for Agreement: Identify specific problem, administrative requirement, program need or other circumstances making the Agreement necessary; include special or unusual terms and conditions.)*

County shall provide fire protection services to State responsibility Area (SRA) lands pursuant to Public Resources Code Section 4129. When requested by the State, County shall also assist the State outside of the county on a reimbursable basis.

10. PAYMENT TERMS *(More than one may apply.)*

☐ MONTHLY FLAT RATE ☐ QUARTERLY ☐ ONE -TIME PAYMENT ☐ PROGRESS PAYMENT

☒ ITEMIZED INVOICE ☐ WITHHOLD _____ % ☐ ADVANCED PAYMENT NOT TO EXCEED

☐ REIMBURSEMENT/REVENUE $ _____ or _____ %

☐ OTHER (*Explain*) _____

11. PROJECTED EXPENDITURES

FUND TITLE	ITEM	F.Y.	CHAPTER	STATUTE	PROJECTED EXPENDITURES
General	3540-0001-001	05/06	BA 05	2005	$ 12,115,773
General	3540-0001-001	06/07	BA 06	2006	$ 14,454,078
General	3540-0001-001	07/08	BA 07	2007	$ 14,454,078

OBJECT CODE 05-3010-418.10-00700; 06-3010-418.10-00700

AGREEMENT TOTAL $ **$ 43,075,125

OPTIONAL USE 07-3010-418.10-00700** Contingency of $2,051,196 included in agreement for future increases.

AMOUNT ENCUMBERED BY THIS DOCUMENT
$ 12,115,773

I CERTIFY upon my own personal knowledge that the budgeted funds for the current budget year are available for the period and purpose of the expenditure stated above.

PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT
$ 0

ACCOUNTING OFFICER'S SIGNATURE

DATE SIGNED

TOTAL AMOUNT ENCUMBERED TO DATE
$ 12,115,773

12.

AGREEMENT	TERM From	TERM Through	TOTAL COST OF THIS TRANSACTION	BID, SOLE SOURCE, EXEMPT
Original	07/01/05	06/30/08	$43,075,125	Exempt
Amendment No. 1			$	
Amendment No. 2			$	
Amendment No. 3			$	
		TOTAL	$ 43,075,125	

(*Continue*)

13. BIDDING METHOD USED:

☐ REQUEST FOR PROPOSAL (RFP) *(Attach justification if secondary method is used)*
☐ INVITATION FOR BID (IFB)
☐ USE OF MASTER SERVICE AGREEMENT
☐ SOLE SOURCE CONTRACT *(Attach STD. 821)*
☒ EXEMPT FROM BIDDING *(Give authority for exempt status)*
☐ OTHER *(Explain)* **SCM 3.06 A2**

NOTE: *Proof of advertisement in the State Contracts Register or an approved form STD. 821, Contract Advertising Exemption Request, must be attached*

14. SUMMARY OF BIDS *(List of bidders, bid amount and small business status) (If an amendment, sole source, or exempt, leave blank)*

15. IF AWARD OF AGREEMENT IS TO OTHER THAN THE LOWER BIDDER, PLEASE EXPLAIN REASON(S) *(If an amendment, sole source, or exempt, leave blank)*

16. WHAT IS THE BASIS FOR DETERMINING THAT THE PRICE OR RATE IS REASONABLE?

PRC Section 4132 requires funds allocated to counties assuming responsibility of fire protection on SRA to be at least equal to the direct cost of fire protection.

17. JUSTIFICATION FOR CONTRACTING OUT *(Check one)*

☐ Contracting out is based on cost savings per Government Code 19130(a). The State Personnel Board has been so notified.
☒ Contracting out is justified based on Government Code 19130(b). Justification for the Agreement is described below.

Justification:

Per PRC 4129, any county may elect to assume responsibility for the prevention and suppression of all fires on all land in the county, including lands within state responsibility areas.

18. FOR AGREEMENTS IN EXCESS OF $5,000, HAS THE LETTING OF THE AGREEMENT BEEN REPORTED TO THE DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING?
☐ NO ☒ YES ☐ N/A

19. HAVE CONFLICT OF INTEREST ISSUES BEEN IDENTIFIED AND RESOLVED AS REQUIRED BY THE STATE CONTRACT MANUAL SECTION 7.10?
☐ NO ☒ YES ☐ N/A

20. FOR CONSULTING AGREEMENTS, DID YOU REVIEW ANY CONTRACTOR EVALUATIONS ON FILE WITH THE DGS LEGAL OFFICE?
☐ NO ☐ YES ☐ NONE ON FILE ☒ N/A

21. IS A SIGNED COPY OF THE FOLLOWING ON FILE AT YOUR AGENCY FOR THIS CONTRACTOR?

A. CONTRACTOR CERTIFICATION CLAUSES
☐ NO ☐ YES ☒ N/A

B. STD. 204, VENDOR DATA RECORD
☐ NO ☒ YES ☐ N/A

22. REQUIRED RESOLUTIONS ARE ATTACHED
☐ NO ☒ YES ☐ N/A

23. ARE DISABLED VETERANS BUSINESS ENTERPRISE GOALS REQUIRED? *(If an amendment, explain changes, if any)*

☐ NO *(Explain below)*
☐ YES *(If YES complete the following)*

DISABLED VETERAN BUSINESS ENTERPRISES: _____ % OF AGREEMENT

☐ Good faith effort documentation attached if 3% goal is not reached.
☐ We have determined that the contractor has made a sincere good faith effort to meet the goal.

Explain:

Local agency agreements are exempt from DVBE requirements per SCM Section 8.12

24. IS THIS A SMALL BUSINESS CERTIFIED BY OSBCR?
☐ NO ☐ YES *(Indicate Industry Group)*

SMALL BUSINESS REFERENCE NUMBER

25. IS THIS AGREEMENT (WITH AMENDMENTS) FOR A PERIOD OF TIME LONGER THAN ONE YEAR? *(If YES, provide justification)*
☐ NO ☒ YES

Fire prevention services required on an on-going basis. PRC 4133 sets the maximum term at 3 years.

I certify that all copies of the referenced Agreement will conform to the original Agreement sent to the Department of General Services.

SIGNATURE/TITLE

✍ , Contracts Analyst

DATE SIGNED

STANDARD AGREEMENT
STD 213 (Rev 06/03)

AGREEMENT NUMBER
7CA53852
REGISTRATION NUMBER

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME
Department of Forestry and Fire Protection

CONTRACTOR'S NAME
County of Los Angeles

2. The term of this Agreement is: July 1, 2005 through June 30, 2008

3. The maximum amount of this Agreement is: **$** 43,075,125
Forty-three million, seventy-five thousand, one-hundred twenty-five dollars and no cents

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

STD 213 Additional Signature(s)	1 page
Exhibit A – Scope of Work	7 pages
Exhibit B – Budget Detail and Payment Provisions	2 pages
Exhibit C – General Terms and Conditions	GTC 304
Check mark one item below as Exhibit D:	
[X] Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement)	3 pages
[ ] Exhibit - D* Special Terms and Conditions	
Exhibit E – Assignment of Agreement	XX pages
Exhibit F – Gray Book *(incorporated by reference – Hard Copy and CDF Intranet)*	
Exhibit G – Operating Plan *(incorporated by reference – Hard Copy and CDF Intranet)*	

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at www.ols.dgs.ca.gov/Standard+Language

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR		***California Department of General Services Use Only***
CONTRACTOR'S NAME *(if other than an individual, state whether a corporation, partnership, etc.)* County of Los Angeles		
BY *(Authorized Signature)*	DATE SIGNED *(Do not type)*	
PRINTED NAME AND TITLE OF PERSON SIGNING **Gloria Molina, Chair, Los Angeles County Board of Supervisors**		
ADDRESS Kenneth Hahn Hall of Administration 500 W. Temple St. Room 866 Los Angeles, CA 90012		
STATE OF CALIFORNIA		
AGENCY NAME Forestry and Fire Protection		
BY *(Authorized Signature)*	DATE SIGNED *(Do not type)*	
PRINTED NAME AND TITLE OF PERSON SIGNING James M. Wright, Deputy Director, Chief of Fire Protection		[ ] Exempt per:
ADDRESS P.O. Box 944246, Sacramento, CA 94244-2460		

STD 213
ADDITIONAL SIGNATURES

SOUTHERN REGION
DEPARTMENT OF FORESTRY
AND FIRE PROTECTION
By:

_____
Signature

_____
Printed Name

Region Chief
_____
Title

_____
Date

APPROVED AS TO CONTENT:
By:

_____
Signature

Gloria Molina
_____
Printed Name

Chair, Los Angeles County Board of Supervisors
_____
Title

_____
Date

ATTEST:
By:

VIOLET VARONA-LUKENS
Executive Officer
Clerk of the Board of Supervisors

By :_____, Deputy

EXHIBIT A

SCOPE OF WORK

THIS AGREEMENT, made between the County of Los Angeles, through its Board of Supervisors, hereinafter called COUNTY, and the State of California, Department of Forestry and Fire Protection (CDF), through duly appointed, qualified, and acting officers, hereinafter called STATE. Where the standard clauses, for example in Exhibit C, use the word "Contractor" that word shall mean COUNTY as COUNTY is used in this agreement.

The STATE and the COUNTY agree that the background of this agreement is as follows:

RECITALS

A. There are within COUNTY areas designated by the State Board of Forestry as State Responsibility Areas for fire protection through authority vested in STATE by Section 4125 of the Public Resources Code.

B. STATE, under authority of Public Resources Code Section 4141, may assign responsibility to a Federal Forest Agency within COUNTY for the prevention and suppression of all fires on State Responsibility Areas within Federal Forest Agency's Direct Protection Areas.

C. Designated State Responsibility Areas in Federal Forest Agency's Direct Protection Areas are delineated on maps on file with STATE in Sacramento, California.

D. COUNTY, by authority of Public Resources Code Section 4129, has elected to assume responsibility for the prevention and suppression of all fires on State Responsibility Areas within COUNTY's SRA Protection Areas (CPA).

E. Designated State Responsibility Areas in COUNTY's SRA Protection Areas are delineated on maps on file with STATE in Sacramento, California.

F. STATE recognizes the capability and efficiency of the COUNTY fire protection organization now maintained by the COUNTY and its qualification to provide the fire protection services described within this agreement.

G. COUNTY has the responsibility for providing life and property fire protection in areas designated as State Responsibility Areas within COUNTY SRA Protection Areas.

H. Under the Budget Act, and in accordance with the STATE's Fire Protection Plan, there is annually appropriated to the Department of Forestry and Fire Protection from the General Fund of the STATE, monies for wildland fire protection in said COUNTY.

I. Under the authority of Section 4135 of the Public Resources Code, monies paid by STATE to COUNTY shall be expended by COUNTY for the sole purpose to fund the fire suppression resources outlined in the "Gray Book", incorporated by reference and marked Exhibit F of this Agreement, for fire prevention, pre-suppression forces preparedness, and suppression of all fires on State Responsibility Areas within COUNTY's SRA Protection Areas; and

J. STATE, by authority of Section 4475 of the Public Resources Code, may enter into contracts for prescribed burning on wildlands.

1. The STATE and the COUNTY agree that the following work shall be done under this agreement:

A. STATE shall supply to COUNTY, the "Gray Book", which outlines and describes the organization to be funded by the STATE to provide fire protection services on a total of approximately 487,536 acres of State Responsibility Area within COUNTY's SRA Protection Areas.

B. COUNTY shall provide to STATE a plan of operations and organization for the COUNTY department contemplated hereunder on forms approved by the STATE, a copy of which is attached marked Exhibit G of this Agreement, which shall show that COUNTY organization is capable of meeting the requirements set forth in the "Gray Book."

C. STATE shall jointly develop and annually review an Operating Plan with the COUNTY that will document those factors specific to that COUNTY. The factors may include specific dispatching procedures, pre-approved initial attack dispatch levels, agency fire protection organization, reimbursement criteria, and other elements agreed to by the STATE and the COUNTY.

D. The STATE'S designated representative shall annually examine, on-the-ground with the COUNTY'S designated representative, the facilities and services the COUNTY has made available in order to ascertain whether the terms of the agreement have been met. Notwithstanding the foregoing, COUNTY shall permit inspection, at any time by representatives of STATE, of crews, vehicles, property and other components of the organization established under the terms of this agreement.

E. Should the operations or organization of COUNTY, in judgement of the STATE, fail to meet the standard of protection required by this agreement, the STATE shall so inform COUNTY and take any reasonable action to maintain the required level of fire prevention and suppression capability.

F. For the purpose of effecting mutual aid in times of fire emergency, either STATE or COUNTY may contribute without cost to the other, such persons and facilities as the contributing party may be willing and able to contribute, and which the receiving party may be willing to accept and direct; this provision shall not abrogate the terms and conditions specified in any other

written agreement entered into by the parties hereto, for the specific purpose of exchanging fire control forces, either on a voluntary or upon a pay basis.

G. Rewards as provided in Public Resources Code Section 4417, may be paid by STATE from funds not included in this contract upon recommendation of the Chief of the COUNTY department.

H. COUNTY shall furnish adequate supervision for said fire protection through a qualified and duly appointed Chief Officer of the department providing services contemplated hereunder. When it becomes necessary to contract for the services of other entities to suppress a wildland fire on State Responsibility Area within COUNTY's SRA Protection Areas, STATE agrees to accept its proportionate level of financial responsibility for those contracts and services required to protect State Responsibility Areas within COUNTY's SRA Protection Areas, provided that the COUNTY obtains prior approval from STATE and exercises reasonable care and due diligence in the selection and the supervision of the contracting entities.

I. COUNTY shall submit, when required by the STATE, reports relating to fire occurrence and history, law enforcement, personnel status, and fire prevention activity.

J. COUNTY shall annually appropriate and expend a sum not less than the amount established annually in the STATE'S Budget Act for said COUNTY for the purpose of preventing and suppressing forest fires as defined in Section 4103 of the Public Resources Code, on the designated State Responsibility Areas within COUNTY's SRA Protection Areas during the term of this agreement.

K. COUNTY shall comply with applicable rules and regulations for prescribed burning of wildlands as described in Sections 4461 to 4480 of Public Resources Code.

2. EMERGENCY OPERATIONS

When COUNTY resources, equipment, and/or personnel are assigned to a State Responsibility Area wildland fire within COUNTY SRA Protection Area, costs over and above the "Gray Book" allotment may be reimbursed by STATE. Such reimbursements will be in accordance with the following provisions:

A. COUNTY may use and bill STATE for COUNTY funded engine companies, bulldozers, handcrews, aircraft, specialized equipment, and overhead personnel when used to protect STATE interests. Under certain conditions as outlined in the STATE/COUNTY Operating Plan described in Exhibit A, Paragraph 1.C. of this Agreement, COUNTY may also bill STATE for STATE-funded COUNTY engine companies and bulldozers. These reimbursements to COUNTY will be from the STATE Emergency Fund and shall be in addition to the annual payment amount described in Exhibit B, Paragraph 1.A. of this Agreement.

The following conditions shall apply for reimbursement of COUNTY engine companies, bulldozers, aircraft, handcrews, and specialized equipment:

1) ENGINE COMPANIES

(a) STATE shall reimburse COUNTY for engine companies when used on a State Responsibility Area wildland fire within the COUNTY's SRA Protection Areas in accordance with criteria for determining reimbursement eligibility as outlined in the STATE/COUNTY Operating Plan described in Exhibit A, Paragraph 1.C. of this Agreement.

(b) STATE shall reimburse COUNTY for engine companies that provide move-up and cover to STATE-funded COUNTY stations within the COUNTY when such cover assignments are the result of a State Responsibility Area wildland fire within COUNTY's SRA Protection Areas. Specific conditions for approval of move-up and cover assignments shall be outlined in the STATE/COUNTY Operating Plan described in Exhibit A, Paragraph 1.C. of this Agreement.

(c) Reimbursement of COUNTY engine companies shall be based on COUNTY rates on file with STATE at time of initial dispatch.

2) BULLDOZERS

(a) STATE shall reimburse COUNTY for COUNTY bulldozers when used on a State Responsibility Area wildland fire within COUNTY's SRA Protection Areas in accordance with criteria for determining reimbursement eligibility as outlined in the STATE/COUNTY Operating Plan described in Exhibit A, Paragraph 1.C. of this Agreement.

(b) Payment of County bulldozers, transports, and operators shall be based on COUNTY operating rates on file with STATE at time of initial dispatch.

(c) County bulldozers billed to STATE must be identified by an incident order and request number and the associated cost; such costs shall be limited to dozer transport and operator, and dozer and operator.

(d) COUNTY shall provide STATE a list of bulldozers, size, model, and identification number, which shall be subject to this agreement. These shall be included in the STATE/COUNTY

Operating Plan described in Exhibit A, Paragraph 1.C. of this Agreement.

3) AIRCRAFT

(a) STATE shall reimburse COUNTY for COUNTY aircraft when used on a State Responsibility Area wildland fire within COUNTY SRA Protection Areas in accordance with criteria for determining reimbursement eligibility as outlined in the STATE/COUNTY Operating Plan described in Exhibit A, Paragraph 1.C. of this Agreement.

(b) Reimbursement of COUNTY aircraft shall be based on COUNTY operating rates on file with STATE at time of initial dispatch.

(c) STATE shall pay aircraft pilots at COUNTY rate.

(d) STATE shall pay for one air tactical officer accompanying a COUNTY fixed-wing aircraft and one crew member assigned to each COUNTY helicopter at the COUNTY rate.

(e) COUNTY aircraft billed to STATE must be identified by an incident order and request number and the associated cost.

(f) COUNTY shall provide STATE a list of aircraft by make, model and aircraft identification number, which shall be subject to this agreement. These shall be included in the STATE/COUNTY Operating Plan described in Exhibit A, Paragraph 1.C. of this Agreement.

4) SPECIALIZED EQUIPMENT

(a) STATE shall reimburse COUNTY for COUNTY specialized equipment when used on a State Responsibility Area wildland fire within COUNTY SRA Protection Areas in accordance with criteria for determining reimbursement eligibility as outlined in the STATE/COUNTY Operating Plan described in Exhibit A, Paragraph 1.C. of this Agreement.

(b) For the purpose of this agreement, Specialized Equipment shall include but is not limited to dozer tenders, helitenders, water tenders, communications units, and mobile kitchen or food service units. Other kinds of specialized equipment may be eligible for reimbursement if authorized by STATE.

(c) Reimbursement of COUNTY specialized equipment shall be based on COUNTY operating rates on file with STATE at time of initial dispatch.

(d) COUNTY specialized equipment billed to STATE must be identified by an incident order and request number and the associated cost; such cost shall be limited to the cost of the equipment usage and equipment operator.

5) HAND CREWS

(a) STATE shall reimburse COUNTY for COUNTY hand crews when used on a State Responsibility Area wildland fire within COUNTY's SRA Protection Areas in accordance with criteria for determining reimbursement eligibility as outlined in the STATE/COUNTY Operating Plan described in Exhibit A, Paragraph 1.C. of this Agreement.

(b) When the State Department of Corrections or other State Agency pays the base salary of a hand crew, including COUNTY fire department supervisors, correctional officers and inmates, then STATE shall only pay those costs which exceed the basic salary of the crew (e.g. overtime and incidental operating expenses) accrued on the emergency.

(c) The STATE shall pay only for additional COUNTY personnel needed as crew strike team leaders to a limit of one strike team leader per crew strike team as defined in ICS standards for a crew strike team and for one technical specialist-crews per incident.

6) OVERHEAD PERSONNEL

(a) STATE shall reimburse COUNTY for COUNTY overhead personnel when used on a State Responsibility Area wildland fire within the COUNTY'S SRA Protection Areas in accordance with criteria for determining reimbursement eligibility as outlined in the State/County Operating Plan described in Exhibit A, Paragraph 3.C. of this agreement.

(b) Reimbursement of COUNTY Overhead Personnel shall be based on COUNTY rates on file with STATE at the time initial dispatch.

B. NOTIFICATION

1) Whenever COUNTY expects payment for services under the provisions of this paragraph, COUNTY must notify STATE of the commitment of any of these resources that have been pre-approved for use as an element of initial attack and so documented in the STATE/COUNTY Operating Plan described in Exhibit A, Paragraph

1.C. of this Agreement. This notification must occur in a timely manner so that an appropriate audit trail can be established.

2) For those resources employed after initial attack, notification will occur when the request for approval of use is made to STATE.

C. STATE shall reimburse COUNTY for COUNTY resources (equipment and personnel) when ordered by STATE or COUNTY in support of a special staffing pattern in accordance with conditions for approval of a special staffing pattern as outlined in the STATE/COUNTY Operating Plan described in Exhibit A, Paragraph 1.C. of this Agreement.

3. ASSISTANCE FOR HIRE

A. COUNTY resources (equipment and personnel) requested directly by STATE for an out-of-county assignment will be reimbursed as Assistance-for-Hire for actual costs incurred by COUNTY.

B. For any State Responsibility Area wildland fire where costs are incurred pursuant to the terms of this AGREEMENT, STATE and COUNTY will comply with the processes and procedures for incident billing established in the STATE/COUNTY Operating Plan described in Exhibit A, Paragraph 1.C. of this Agreement.

4. The project representatives during the term of this agreement will be:

State Agency: California Department of Forestry and Fire Protection	Contractor: County of Los Angeles
Name: Deputy Chief, Contract Counties	Name: Fire Chief, Los Angeles County Fire Dept.
Phone: (951) 320-6102	Phone: (323) 881-2401
Fax: (951) 320-6395	Fax: (323) 265-9948

Direct all inquiries to:

State Agency: California Department of Forestry and Fire Protection	Contractor: County of Los Angeles
Section/Unit: Southern Region	Section/Unit: Los Angeles County Fire Department
Attention: Deputy Chief, Contract Counties	Attention: Fire Chief
Address: 2524 Mulberry St., Riverside, CA 92501	Address: 1320 North Eastern Avenue Los Angeles, CA 90063-3294
Phone: (951) 320-6102	Phone: (323) 881-2401
Fax: (951) 320-6395	Fax: (323) 265-9948

EXHIBIT B

BUDGET DETAIL AND PAYMENT PROVISIONS

1. INVOICING AND PAYMENT

A. For services satisfactorily rendered, and upon receipt and approval of the invoices, the STATE shall annually pay to COUNTY that amount which is set forth in the STATE'S budget for each fiscal year involved as the STATE'S contribution to the support of the organization maintained by COUNTY for the prevention and suppression of wildland fires on lands described herein. The total amount payable by STATE to COUNTY for "Gray Book" shall not exceed the amount specified on STANDARD FORM 213, Item 3, during the term of this agreement. This amount shall not include payments to the COUNTY for COUNTY resources used to suppress state responsibility fires under conditions set forth in Exhibit A, Paragraphs 4 through 7 of this Agreement.

B. COUNTY shall request payment in an amount not to exceed the sum designated in paragraph A above in the manner described hereinafter.

C. COUNTY shall prepare and submit "Gray Book" invoices to STATE monthly, quarterly, semi-annually, or annually at COUNTY'S option, in arrears after STATE has certified that such services have been satisfactorily provided in accordance with this agreement, during the period covered by said invoice. The final statement for any fiscal year covered by this agreement shall be submitted no later than sixty days following the end of that fiscal year. "Gray Book" invoices shall include the Agreement Number and shall be submitted in triplicate in arrears to:

Name: Deputy Chief, Contract Counties
Office: Southern Region
Address: 2524 Mulberry St., Riverside, CA 92501

D. In the event STATE during the term of this agreement increases salary, augments staffing or other expense items, having the effect of increasing such cost, the "Gray Book" may be amended to reflect such increase provided that funds have been appropriated and are available for such purpose. Similarly, in the event STATE receives a budget reduction having the effect of decreasing such cost, the "Gray Book" may be amended to reflect such decrease. In the event no appropriation is made for the purpose of this agreement, the obligations of the parties to each other under this agreement shall cease and this agreement shall become null and void.

2. BUDGET CONTINGENCY CLAUSE

A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.

B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

3. PROMPT PAYMENT CLAUSE

Upon receipt of a properly submitted, undisputed invoice, STATE shall pay COUNTY within forty-five (45) days, or automatically calculate and pay the appropriate late payment penalties as specified in Government Code, Chapter 4.5, section 927. In the event of an emergency, as defined in section 927.11, late payment penalties may not apply. Specific to STATE, if an invoice from a business under contract with STATE becomes subject to late payment penalties during the annually declared fire season, then the required payment approval date shall extend 30 calendar days beyond the initial 45-day period.

"GRAY BOOK" FUNDING INFORMATION

County of Los Angeles/Department of Forestry and Fire Protection

2005	3010	418.10	00700	$ 12,115,773
2006	3010	418.10	00700	$ 14,454,078
2007	3010	418.10	00700	$ 14,454,078
Contingency for future increases				$ 2,051,196
TOTAL AGREEMENT				**$ 43,075,125**

GTC 304
EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.

2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.

3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.

4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (GC 8546.7, PCC 10115 et seq., CCR Title 2, Section 1896).

5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.

6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.

7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of recycled content, both post consumer waste and secondary waste as defined in the Public Contract Code, Sections 12161 and 12200, in materials, goods, or supplies offered or products used in the performance of this Agreement, regardless of whether the product meets the required recycled product percentage as defined in the Public Contract Code, Sections 12161 and 12200. Contractor may certify that the product contains zero recycled content. (PCC 10233, 10308.5, 10354)

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 304 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

1). "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2). "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: "For any Agreement in excess of $100,000, the contractor acknowledges in accordance with, that:

a). The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b) The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department."

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. UNION ACTIVITIES For all contracts, except fixed price contracts of $50,000 or less, the Contractor acknowledges that:

By signing this agreement Contractor hereby acknowledges the applicability of Government Code Section 16645 through Section 16649 to this agreement and agrees to the following:

a) Contractor will not assist, promote or deter union organizing by employees performing work on a state service contract, including a public works contract.

b) No state funds received under this agreement will be used to assist, promote or deter union organizing.

c) Contractor will not, for any business conducted under this agreement, use any state property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote or deter union organizing, unless the state property is equally available to the general public for holding meetings.

d) If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from state funds has been sought for these costs, and that Contractor shall provide those records to the Attorney General upon request.

EXHIBIT D

SPECIAL TERMS AND CONDITIONS

CONTRACT PROVISIONS

1. Excise Tax

State of California is exempt from federal excise taxes, and no payment will be made for any taxes levied on employees' wages. State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this agreement. CDF may pay any applicable sales and use tax imposed by another state.

2. Settlement of Disputes

In the event of a dispute, within ten (10) days of discovery of the problem contractor shall file a "Notice of Dispute" with:

Department of Forestry and Fire Protection
Attention: Deputy Director for Fire Protection
P.O. Box 944246
Sacramento, CA 94244-2460

Department of Forestry and Fire Protection
Attention: Region Chief, Southern Region
1234 East Shaw Avenue
Fresno, CA 93710

Department of Forestry and Fire Protection
Attention: Deputy Chief, Contract Counties
2524 Mulberry St.
Riverside, CA 92501

Within ten (10) days of STATE receiving COUNTY'S notice, the Region Chief or designee shall consult with the COUNTY in an effort to resolve the dispute. If not satisfied by the results of the consultation, the COUNTY may request review of the dispute by the STATE Deputy Director.

3. TERMINATION

Either party may terminate this agreement at any time by giving a minimum of 12 months notice to the other party. In the event of termination, State shall pay contractor for all costs and uncancelable obligations incurred to the date of termination up to but not exceeding the maximum amount payable.

4. HOLDING OVER

A. It is hereby understood and agreed that:

1) In the event STATE or COUNTY decides not to renew this agreement, STATE or COUNTY shall provide the other a minimum of 12 months written notice of such intention. If no

such notice is received, and a new agreement has not been executed, this agreement shall be automatically extended on the same terms and conditions as contained herein, together with amendments if any, until the earlier of:

(a) The date on which a new renewal agreement is fully executed, or

(b) Termination of this holdover agreement by the mailing by either COUNTY or STATE of 12 months written notice to the other party.

2) Renewal agreements shall be retroactive to the end of the term of the present agreement. Any payments made during a holdover period shall, if necessary, be promptly adjusted to comply with payments called for in the new agreement. Such adjustments shall occur within 60 days after approval of the new agreement by the State Department of General Services. COUNTY shall invoice STATE for any billing correction made necessary because of changes in the contract rates.

3) The effectiveness of this Exhibit D, paragraph 5 is conditional upon the lawful appropriation and availability of STATE funding for COUNTY'S services during the term of this agreement.

5. INDEMNIFICATION

Paragraph 5 of Exhibit C, General Terms and Conditions, does not apply because it is superseded by this paragraph. COUNTY agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by COUNTY in the performance of this Agreement.

Pursuant to Government Code section 925 et seq., STATE agrees to indemnify, defend and save harmless the COUNTY, its officers, agents and employees from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by STATE in the performance of this agreement.

6. INDEMNIFICATION FOR VEGETATION MANAGEMENT PROJECTS

The STATE agrees to indemnify, defend, and hold harmless the COUNTY, its agents, officers and employees, from and against any and all liability expense, including defense costs and legal fees, and claims for damages of any nature whatsoever, arising solely out of performance by the COUNTY of approved vegetation management projects undertaken as part of fire prevention activities under this agreement.

7. FORCE MAJEURE

Neither party shall be liable to the other for any delay in or failure of performance, nor shall any such delay in or failure of performance constitute

default, if such delay or failure is caused by "Force Majeure." As used in this section, "Force Majeure" is defined as follows: Acts of war and acts of God such as earthquakes, floods, and other natural disasters such that performance is impossible.

8. Notwithstanding the terminology of Public Resources Code sections 4119, 4153, 4423, and 4436, the COUNTY shall not act as an agent of the STATE but shall exercise the powers granted in those sections independently as authorized by Public Resources Code Section 4129.

9. Paragraph 15 of Exhibit C does not apply to this agreement because the services provided in this agreement were not obtained by means of a competitive bid.