

FORM APPROVED COUNTY COUNSEL  
BY: H. S. Victor 4/28/09  
DATE  
MARSHAL L. VICTOR

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

614



**SUBMITTAL DATE:**  
April 8, 2009

**FROM:** Department of Facilities Management

**SUBJECT:** Twin Pines Youth Ranch – Remediation

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Approve the attached professional services agreement between the County of Riverside and Stantec Consulting Corporation of Redlands, California, in the amount of \$33,920, and authorize the Chairman to execute the agreement on behalf of the County; and
2. Authorize the Assistant County Executive Officer/EDA/FM to administer the agreement in accordance with applicable Board policies.

(Continued)

*Robert Field*

Robert Field  
Assistant County Executive Officer/EDA/FM

<b>FINANCIAL DATA</b>	<b>Current F.Y. Total Cost:</b>	\$ 33,920	<b>In Current Year Budget:</b>	Yes
	<b>Current F.Y. Net County Cost:</b>	\$ 33,920	<b>Budget Adjustment:</b>	No
	<b>Annual Net County Cost: 08/09</b>	\$ 0	<b>For Fiscal Year:</b>	08/09

<b>SOURCE OF FUNDS:</b> Deferred Maintenance	<b>Positions To Be Deleted Per A-30</b>	<input type="checkbox"/>
	<b>Requires 4/5 Vote</b>	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:**

**APPROVE**

*Jennifer L. Sargent*

BY: Jennifer L. Sargent

**County Executive Office Signature**

Consent  
 Policy  
 Consent  
 Policy

Dep't Recomm.:  
Per Exec. Ofc.:

Prev. Agn. Ref.: 3.52, 7/31/07

District: 5

Agenda Number:

ATTACHMENTS FILED  
WITH THE CLERK OF THE BOARD

3.21

**BACKGROUND:**

In 1999, the County Department of Environmental Health (DEH) determined that three leaking underground storage tanks (LUSTs) impacted the soil and groundwater with fuel hydrocarbons and volatile organic compounds (VOCs) beneath the County Probation Department's Twin Pines Ranch. Based on that information, the DEH requested that groundwater samples be collected at the site to evaluate the present concentrations of impact and the depth and flow direction of groundwater. Stantec Consulting Corporation (Stantec) conducted sampling on May 20 and 21, 2008. Subsequently, this project was transferred from the DEH to the California Regional Water Quality Control Board, Colorado River Basin Region (CRWQCB).

A meeting was held with CRWQCB on March 30, 2009 to discuss the transfer and the assessment effort. CRWQCB requested that the County conduct further assessment in two areas where the limits of impacted groundwater have not been defined. The scope of services includes development of 6 groundwater monitoring wells and six soil borings, groundwater and soil sampling, and preparation of a technical report.

On July 31, 2007 the Board of Supervisors approved a pre-qualified list of environmental consulting firms to be retained on an as-needed basis. Facilities Management has selected Stantec Consulting Corporation to provide these services for the project due to their experience, low bid and successful completion of similar projects with similar scopes of service for the County. County Counsel has approved the agreement as to legal form.

Sufficient funds have been budgeted for FY 2008/2009 within the project to support the professional services agreement. All costs associated with this project will be fully funded by Deferred Maintenance allocation.

1 PROFESSIONAL SERVICES AGREEMENT

2  
3 This Agreement, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, by and between  
4 Stantec Consulting Corporation (herein referred to as "CONSULTANT"), and the COUNTY OF  
5 RIVERSIDE, a political subdivision of the State of California, (herein referred to as "COUNTY").

6 WHEREAS, Government Code Section 23000 et seq. authorizes the COUNTY to  
7 contract for services with a person who is specially trained and experienced, and who is competent  
8 to perform the special services required; and

9 WHEREAS, CONSULTANT has the expertise, special skills, knowledge and  
10 experience to perform the duties set out herein.

11 NOW THEREFORE, in consideration of the mutual covenants contained herein, the  
12 parties hereto agree as follows:

13 1. SCOPE OF SERVICES: Consultant shall perform soil and groundwater assessment  
14 services for the Project described as Twin Pines Ranch. Consultant shall provide all services as  
15 outlined and specified in Exhibit A, consisting of five (5) page(s), attached hereto and by this  
16 reference incorporated herein.

17 1.1 Consultant represents and maintains that it is skilled in the professional calling  
18 necessary to perform all services, duties and obligations required by this Agreement to fully and  
19 adequately complete the project. Consultant shall perform the services and duties in conformance to  
20 and consistent with the standards generally recognized as being employed by professionals in the  
21 same discipline in the State of California. Consultant further represents and warrants to the County  
22 that it has all licenses, permits, qualifications and approvals of whatever nature are legally required to  
23 practice its profession. Consultant further represents that it shall keep all such licenses and approvals  
24 in effect during the term of this Agreement.

25 2. PERIOD OF PERFORMANCE: Consultant shall commence performance of services  
26 within one (1) calendar day after execution of this Agreement, and shall diligently perform the  
27 services to full completion of the Project as required and in accordance with the schedule noted in  
28 Exhibit A., unless sooner terminated as specified in Paragraph 8, or extended as provided in  
Paragraph 13. All applicable indemnification provisions in this Agreement shall remain in effect

1 following the termination of this Agreement.

2 3. COMPENSATION: The County shall pay the Consultant for services performed and  
3 expenses incurred as follows:

4 3.1 County shall pay to Consultant for services performed and expenses incurred  
5 in accordance with the Scope of Services set forth in Exhibit A. The total amount of compensation  
6 paid to Consultant under this Agreement shall not exceed the sum of Thirty Three Thousand Nine  
7 Hundred Twenty Dollars (\$33,920) including reimbursable expenses per Exhibit A, unless a written  
8 amendment to this Agreement is executed by both parties prior to performance of additional services.

9 3.2 Said compensation shall be paid in accordance with an invoice submitted to  
10 County by Consultant within fifteen (15) days from the last day of each calendar month, and County  
11 shall pay the invoice within thirty (30) working days from the date of receipt of the invoice.

12 4. INDEPENDENT CONTRACTOR: County retains Consultant on an  
13 independent contractor basis. Consultant is not, and shall not be considered to be in any manner, an  
14 employee, agent or representative of the County. Consultant shall not be entitled to any benefits  
15 payable to employees of County including County Workers' Compensation benefits. County is not  
16 required to make any deductions from the compensation payable to Consultant under this  
17 Agreement, and as an independent contractor, Consultant hereby holds County harmless from any  
18 and all claims that may be made against County based upon any contention by any third party that an  
19 employer-employee relationship exists by reason of this Agreement.

20 Personnel performing any services under this Agreement on behalf of Consultant shall at all  
21 times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries  
22 and other amounts due such personnel in connection with their performance of service and as  
23 required by law. Consultant shall be responsible for all reports and obligations respecting such  
24 personnel, including but not limited to, social security taxes, income tax withholdings,  
25 unemployment insurance, and workers' compensation insurance.

26 5. CONSULTANT'S RESPONSIBILITY: It is understood that the Consultant has the  
27 skills, experience and knowledge necessary to perform the services agreed to be performed under this  
28 Agreement, and that the County relies upon the Consultant's representations about its skills,

1 experience and knowledge to perform the Consultant's services in a competent manner. Acceptance  
2 by the County of the services to be performed under this Agreement does not operate as a release of  
3 said Consultant from responsibility for the work performed. It is further understood and agreed that  
4 the Consultant is apprised of the scope of the work to be performed under this Agreement and the  
5 Consultant agrees that said work can and shall be performed in a fully competent manner.

6           6.     INDEMNIFICATION: CONTRACTOR shall indemnify and hold harmless  
7 the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective  
8 directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and  
9 representatives from any liability whatsoever, based or asserted upon any services of  
10 CONTRACTOR, its officers, employees, subcontractors, agents or representatives arising out of or  
11 in any way relating to this Agreement, including but not limited to property damage, bodily injury, or  
12 death or any other element of any kind or nature whatsoever arising from the performance of  
13 CONTRACTOR, its officers, agents, employees, subcontractors, agents or representatives from this  
14 Agreement. CONTRACTOR shall defend, at its sole expense, all costs and fees including, but not  
15 limited, to attorney fees, cost of investigation, defense and settlements or awards, the County of  
16 Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors,  
17 officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives  
18 in any claim or action based upon such alleged acts or omissions.

19 With respect to any action or claim subject to indemnification herein by CONTRACTOR,  
20 CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall  
21 have the right to adjust, settle, or compromise any such action or claim without the prior consent of  
22 COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner  
23 whatsoever limits or circumscribes CONTRACTOR'S indemnification to COUNTY as set forth  
24 herein.

25 CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has provided to  
26 COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or  
27 claim involved.  
28

1 The specified insurance limits required in this Agreement shall in no way limit or circumscribe  
2 CONTRACTOR'S obligations to indemnify and hold harmless the COUNTY herein from third party  
3 claims.

4 In the event there is conflict between this clause and California Civil Code Section 2782, this clause  
5 shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the  
6 CONTRACTOR from indemnifying the COUNTY to the fullest extent allowed by law.

7 7. INSURANCE: Without limiting CONSULTANT'S indemnification,  
8 CONSULTANT shall maintain in force at all times during the performance of this Agreement,  
9 insurance policies evidencing coverage during the entire term of the Agreement as follows:

10 A. Workers' Compensation: If the CONTRACTOR has employees as defined by the  
11 State of California, the CONTRACTOR shall maintain statutory Workers' Compensation  
12 Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall  
13 include Employers' Liability (Coverage B) including Occupational Disease with limits  
14 not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive  
15 subrogation in favor of The County of Riverside, and, if applicable, to provide a  
16 Borrowed Servant/Alternate Employer Endorsement.

17 B. Commercial General Liability:

18 Commercial General Liability insurance coverage, including but not limited to,  
19 premises liability, contractual liability, products and completed operations liability,  
20 personal and advertising injury covering claims which may arise from or out of  
21 CONTRACTOR'S performance of its obligations hereunder. Policy shall name all  
22 Agencies, Districts, Special Districts, and Departments of the County of Riverside, their  
23 respective directors, officers, Board of Supervisors, employees, elected or appointed  
24 officials, agents or representatives as Additional Insureds. Policy's limit of liability shall  
25 not be less than \$1,000,000 per occurrence combined single limit. If such insurance  
26 contains a general aggregate limit, it shall apply separately to this agreement or be no less  
27 than two (2) times the occurrence limit.  
28

1 valid for that specific insurer and only for one policy term.

2 2) The CONTRACTOR'S insurance carrier(s) must declare its insurance deductibles or  
3 self-insured retentions. If such deductibles or self-insured retentions exceed \$500,000  
4 per occurrence such deductibles and/or retentions shall have the prior written consent of  
5 the County Risk Manager before the commencement of operations under this Agreement.

6 Upon notification of deductibles or self insured retention's unacceptable to the  
7 COUNTY, and at the election of the Country's Risk Manager, CONTRACTOR'S  
8 carriers shall either; 1) reduce or eliminate such deductibles or self-insured retention's as  
9 respects this Agreement with the COUNTY, or 2) procure a bond which guarantees  
10 payment of losses and related investigations, claims administration, and defense costs  
11 and expenses.

12 3) CONTRACTOR shall cause CONTRACTOR'S insurance carrier(s) to furnish the  
13 County of Riverside with either 1) a properly executed original Certificate(s) of Insurance  
14 and certified original copies of Endorsements effecting coverage as required herein, or 2)  
15 if requested to do so orally or in writing by the County Risk Manager, provide original  
16 Certified copies of policies including all Endorsements and all exhibits thereto, showing  
17 such insurance is in full force and effect. Further, said Certificate(s) and policies of  
18 insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days  
19 written notice shall be given to the County of Riverside prior to any material  
20 modification, cancellation, expiration or reduction in coverage of such insurance. In the  
21 event of a material modification, cancellation, expiration, or reduction in coverage, this  
22 Agreement shall terminate forthwith, unless the County of Riverside receives, prior to  
23 such effective date, another properly executed original Certificate of Insurance and  
24 original copies of endorsements or certified original policies, including all endorsements  
25 and Exhibits thereto evidencing coverage's set forth herein and the insurance required  
26 herein is in full force and effect. ***CONTRACTOR shall not commence operations until***  
27 ***the COUNTY has been furnished original Certificate (s) of Insurance and certified***  
28 ***original copies of endorsements or policies of insurance including all endorsements***

1 *and any and all other Exhibits as required in this Section. An individual authorized*  
2 *by the insurance carrier to do so on its behalf shall sign the original endorsements for*  
3 *each policy and the Certificate of Insurance.*

4 4) It is understood and agreed to by the parties hereto and the insurance company(s), that  
5 the Certificate(s) of Insurance and policies shall so covenant and shall be construed as  
6 primary insurance, and the COUNTY'S insurance and/or deductibles and/or self-insured  
7 retention's or self-insured programs shall not be construed as contributory.

8 5) The COUNTY'S Reserved Rights--Insurance. If, during the term of this Agreement  
9 or any extension thereof, there is a material change in the scope of services; or, there is a  
10 material change in the equipment to be used in the performance of the scope of work  
11 (such as the use of aircraft or watercraft) the COUNTY reserves the right to adjust the  
12 types of insurance required under this Agreement and the monetary limits of liability for  
13 the insurance coverage's currently required herein, if; in the County Risk Manager's  
14 reasonable judgment, the amount or type of insurance carried by the CONTRACTOR has  
15 become inadequate.

16 6) CONTRACTOR shall pass down the insurance obligations contained herein to all  
17 tiers of subcontractors working under this Agreement.

18 8. TERMINATION: County may, by written notice to Consultant, terminate this  
19 Agreement in whole or in part at any time. Such termination may be for County's convenience or  
20 because of Consultant's failure to perform its duties and obligations under this Agreement including,  
21 but not limited to, the failure of Consultant to timely perform Services pursuant to the Schedule of  
22 Services described in Exhibit A to this Agreement.

23 8.1 Discontinuance of Services. Upon Termination, Consultant shall, unless  
24 otherwise directed by the Notice, discontinue all services and deliver to the County all data,  
25 estimates, graphs, summaries, reports, and other related materials as may have been prepared or  
26 accumulated by Consultant in performance of Services, whether completed or in progress.

27 8.2 Effect of Termination For Convenience. If the termination is to be for the  
28 convenience of the County, the County shall compensate Consultant for services satisfactorily

1 provided through the date of termination. Consultant shall provide documentation deemed adequate  
2 by County to show the Services actually completed by Consultant prior to the date of termination.  
3 This Agreement shall terminate thirty (30) days following receipt by the Consultant of the written  
4 Notice of Termination.

5           8.3     Effect of Termination For Cause. If the termination is due to the failure of  
6 Consultant to fulfill its obligations under this Agreement, Consultant shall be compensated for those  
7 Services which have been completed in accordance with this Agreement and accepted by the County.  
8 In such case, the County may take over the work and prosecute the same to completion by contract  
9 or otherwise. Further, Consultant shall be liable to the County for any reasonable additional costs  
10 incurred by the County to revise work for which the County has compensated Consultant under this  
11 Agreement, but which the County has determined in its sole discretion needs to be revised in part or  
12 whole to complete the Project. Following discontinuance of Services, the County may arrange for a  
13 meeting with Consultant to determine what steps, if any, Consultant can take to adequately fulfill its  
14 requirements under this Agreement. In its sole discretion, County's Representative may propose an  
15 adjustment to the terms and conditions of the Agreement, including the contract price. Such contract  
16 adjustments, if accepted in writing by the Parties, shall become binding on Consultant and shall be  
17 performed as part of this Agreement. In the event of termination for cause, unless otherwise agreed  
18 to in writing by the parties, this Agreement shall terminate seven (7) days following the date the  
19 Notice of Termination was mailed to the Consultant. Termination of this Agreement for cause may  
20 be considered by the County in determining whether to enter into future agreements with Consultant.

21           8.4     Notwithstanding any of the provisions of this Agreement, Consultant's rights  
22 under this Agreement shall terminate (except for fees accrued prior to the date of termination) upon  
23 dishonesty, or a willful or material breach of this Agreement by Consultant, or in the event of  
24 Consultant's unwillingness or inability for any reason whatsoever to perform the duties hereunder, or  
25 if the Agreement is terminated pursuant to Section 8. In such event, Consultant shall not be entitled  
26 to any further compensation under this Agreement.

27           8.5     Cumulative Remedies. The rights and remedies of the parties provided in this  
28 Section are in addition to any other rights and remedies provided by law or under this Agreement.

1           9.     CONFLICT OF INTEREST: Consultant covenants that it presently has no interest,  
2 including but not limited to, other projects or independent contracts, and shall not acquire any such  
3 interest, direct or indirect, which would conflict in any manner or degree with the performance of  
4 services required under this Agreement. Consultant further covenants that in the performance of this  
5 Agreement, no person having any such interest shall be employed or retained by it under this  
6 Agreement.

7           10.    ADMINISTRATION: The Deputy Director, Design Construction, Department of  
8 Facilities Management (or designee) shall administer this Agreement on behalf of COUNTY.

9           11.    ASSIGNMENT: This Agreement shall not be assigned by Consultant, either in whole  
10 or in part, without prior written consent of County. Any assignment or purported assignment of this  
11 Agreement by Consultant without the prior written consent of County will be deemed void and of no  
12 force or effect.

13           12.    NONDISCRIMINATION: Consultant represents that it is an equal opportunity  
14 employer and it shall not discriminate against any employee or applicant for employment because of  
15 race, religion, color, national origin, ancestry, sex, physical condition, or age. Such non-  
16 discrimination shall include, but not be limited to, all activities related to initial employment,  
17 upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

18           13.    ALTERATION: No alteration or variation of the terms of this Agreement shall be  
19 valid unless made in writing and signed by the parties hereto, and no oral understanding or  
20 agreement not incorporated herein shall be binding on any of the parties hereto. No additional  
21 services shall be performed by Consultant without a written amendment to this Agreement.

22           Consultant understands that the Board of Supervisors and the County Purchasing Agent are  
23 the only authorized County representatives who may at any time, by written order, make any  
24 alterations within the general scope of this Agreement.

25           If Consultant feels that any work requested of it is beyond the scope of services under this  
26 Agreement, any claim by the Consultant for adjustment under this paragraph shall be made within  
27 thirty (30) days of when the Consultant is requested to perform the disputed scope of work.

28           14.    LICENSE AND CERTIFICATION: Consultant verifies upon execution of this

1 Agreement, possession of a current and valid license in compliance with any local, State, and Federal  
2 laws and regulations relative to the scope of services to be performed under Exhibit A, and that  
3 services(s) will be performed by properly trained and licensed staff.

4 15. CONFIDENTIALITY: Consultant shall maintain the confidentiality of any and all  
5 records and information accessed or processed under this Agreement. Consultant shall not disclose,  
6 except as permitted by this Agreement or as authorized by the County, any oral or written  
7 communication, information, or effort of cooperation between County and Consultant, or between  
8 County and Consultant and any other party.

9 16. WORK PRODUCT: All reports, preliminary findings, or data assembled or compiled  
10 by Consultant under this Agreement become the property of the County upon their creation. The  
11 County reserves the right to authorize others to use or reproduce such materials. Therefore, such  
12 materials shall not be circulated in whole or in part, nor released to the public, without the direct  
13 authorization of the Director or an authorized designee.

14 17. JURISDICTION, VENUE: This Agreement is to be construed under the laws of the  
15 State of California. The parties agree to the jurisdiction and venue of the appropriate courts in the  
16 County of Riverside, State of California.

17 18. WAIVER: Any waiver by County of any breach of any one or more of the terms of  
18 this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same  
19 or of any other term thereof. Failure on the part of the County to require exact, full and complete  
20 compliance with any terms of this Agreement shall not be construed as in any manner changing the  
21 terms hereof, or stopping County from enforcement hereof.

22 19. SEVERABILITY: If any provision in this Agreement is held by a court of competent  
23 jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue  
24 in full force without being impaired or invalidated in any way.

25 20. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement between  
26 the parties hereto with respect to the subject matter hereof and all prior or contemporaneous  
27 agreements of any kind or nature relating to the same shall be deemed to be merged herein. Any  
28 modifications to the terms of this Agreement must be in writing and signed by the parties herein.

21. NOTICES: All correspondence and notices required or contemplated by this Agreement shall be delivered to the respective parties at the addresses set forth below and are deemed submitted one (1) day after their deposit in the United States Mail, postage prepaid:

County: Department of Facilities Management  
3133 Mission Inn Ave.  
Riverside, California 92507

CONSULTANT: Stantec Consulting Corporation  
25864-F Business Center Drive  
Redlands, CA 92374

IN WITNESS WHEREOF, the parties hereto have caused their duly representatives to execute this Agreement.

DATED: 4-20-09

CONSULTANT  
Stantec Consulting Corporation

By: Kyle D. Em

Title: Managing Principal

Federal Tax I.D. No. 33-0385098

DATED: \_\_\_\_\_

COUNTY OF RIVERSIDE

ATTEST:  
Kecia Harper-Ihem

By: \_\_\_\_\_  
Chairperson, Board of Supervisors

By: \_\_\_\_\_  
Deputy